

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X	:	
STERLING EQUIPMENT, INC.,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	04-12313 NMG
M.A.T. MARINE, INC.,	:	
Defendant.	:	IN ADMIRALTY
-----X	:	

**AFFIDAVIT OF NOTICE OF HEARING
AND SERVICE OF PROCESS**

Norman A. Peloquin, II, hereby states under the penalty of perjury pursuant to 28 USC §1746 that:

1. I am counsel to plaintiff, Sterling Equipment, Inc., in the above-captioned action.
2. Pursuant to the directive of this Honorable Court on October 29, 2004, I served defendant, M.A.T. Marine, Inc., with copies of the Summons, Verified Complaint, *Ex parte* Motion for Real Estate Attachment, Affidavit in Support of *Ex parte* Motion for Real Estate Attachment, Proposed Order, Proposed Writ of Attachment, and Notice of Hearing in this matter by the following means, to wit:
 - (a) By delivering copies of the foregoing by facsimile to defendant and its counsel on November 1, 2004. A copy of the cover letter is attached hereto and marked as **Exhibit A.**
 - (b) By causing copies of the foregoing to be served by the Barnstable County Sheriff's Department upon defendant at the residence of its principal officers and directors, Mr. and Mrs. Michael and Kathleen Hallam, who reside at 158

Jefferson Road, Bourne, Massachusetts, on November 2, 2004. Although I have not received the Deputy Sheriff's executed Return of Service, I confirmed delivery of the foregoing with Deputy Sheriff Hunt by telephone this afternoon.

3. In response to my correspondence, I received a telephone call from Attorney Victor Bass of the law firm of Burns & Levinson LLP on November 2, 2004, acknowledging receipt of the foregoing. Copies of confirmatory correspondence between the parties are attached hereto and marked as **Exhibit B and C** respectively.

I certify under the penalty of perjury that the foregoing is true and correct on this 3rd day of November, 2004.

/s/ Norman A. Peloquin, II
Norman A. Peloquin II
(BBO Bar No. 550872)
NORMAN A. PELOQUIN, II, P.C.
Morad Building, 460 County Street
New Bedford, MA 02740-5107
Tel. (508) 991-2300; Fax (508) 991-8300

Attorney for
STERLING EQUIPMENT, INC.

Certificate of Service

I hereby certify that on the 3rd of November, 2004, I served a copy of the foregoing document by facsimile upon defendant, M.A.T. Marine, Inc., 66 Sandwich Road, Bourne, MA 02532, and upon defendant's counsel, Robert J. Murphy, Holbrook & Murphy, 150 Federal Street, 12th Floor, Boston, MA 02110; and Victor Bass, Burns & Levinson LLP, 125 Summer Street, Boston, MA 02110.

/s/ Norman A. Peloquin, II
Attorney-at-Law

Exhibit A

LAW OFFICE OF
NORMAN A. PELOQUIN, II, P.C.
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW

MORAD BUILDING, 460 COUNTY STREET
NEW BEDFORD, MASSACHUSETTS 02740-5107

NORMAN A. PELOQUIN, II†
MATTHEW A. LYONS ‡
† ADMITTED IN MA AND RI
‡ ADMITTED IN MA, NY AND NJ

TELEPHONE: 508.991.2300
TELECOPIER: 508.991.8300
E-MAIL: peloquin@sealaw.net

November 1, 2004

Via Facsimile Only (Total Pages:28)

617-443-1696

Holbrook & Murphy
150 Federal Street, 12th Floor
Boston, MA 02110
Attn: Robert J. Murphy

**Re: Sterling Equipment Inc. v. M.A.T. Marine, Inc.,
U. S. District Court (Massachusetts), C.A. No. 04-12313 (NMG);
Our File No. 03-112.44**

Dear Sirs:

We write in furtherance to our telephone conversation last week. On behalf of plaintiff, Sterling Equipment, Inc., we enclosed copies of the following pleadings in the above-referenced action:

4. Summons;
5. Verified Complaint;
6. *Ex parte* Motion for Real Estate Attachment;
7. Affidavit in Support of *Ex parte* Motion for Real Estate Attachment;
8. Proposed Order;
9. Proposed Writ of Attachment; and
10. Notice of Hearing.

Please advise if you will accept service of process on behalf of defendant, M.A.T. Marine, Inc.

NORMAN A. PELOQUIN, II P.C.

Holbrook & Murphy
November 1, 2004
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In the meantime, please take notice that the Court will hold a hearing on plaintiff's application for attachment of real estate on Thursday, November 4, 2004 at 10:00 a.m.

Thank you for your anticipated courtesy and cooperation in this matter.

Very truly yours,

Norman A. Peloquin, II

NAP:mal

Enclosures

cc: M.A.T. Marine, Inc. (w/ encls.)
66 Sandwich Road
P.O. Box 974
Monument Beach, MA 02553
Attn: Kathleen and Michael Hallam
Via FAX Only 508-759-0309

Sterling Equipment, Inc. (w/ encls.)
62 Nay Street
East Boston, MA 02128
Attn: Norman B. Bourque, Jr.
Via FAX Only 617-561-0049

Exhibit B

LAW OFFICE OF
NORMAN A. PELOQUIN, II, P.C.
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW

MORAD BUILDING, 460 COUNTY STREET
NEW BEDFORD, MASSACHUSETTS 02740-5107

NORMAN A. PELOQUIN, II†
MATTHEW A. LYONS ‡
† ADMITTED IN MA AND RI
‡ ADMITTED IN MA, NY AND NJ

TELEPHONE: 508.991.2300
TELECOPIER: 508.991.8300
E-MAIL: peloquin@sealaw.net

November 2, 2004

Via Facsimile Only (Total Pages:02)

617-345-3299

Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Attn: Victor Bass

**Re: Sterling Equipment Inc. v. M.A.T. Marine, Inc.,
U. S. District Court (Massachusetts), C.A. No. 04-12313 (NMG);
Our File No. 03-112.44**

Dear Sirs:

We write in furtherance to our telephone conversation this morning. We understand that you represent M.J.H. Leasing, Inc. and its sister company, M.A.T. Marine, Inc. On behalf of plaintiff, Sterling Equipment, Inc., we wish to confirm that you are in receipt of our correspondence of November 1, 2004 to Messrs. Holbrook and Murphy in connection with plaintiff's application for attachment of defendant's real estate in the above-referenced action.

With respect to defendant's offer to confess judgment in the amount of the debt in lieu of the recording of a real estate attachment, we would appreciate a written settlement proposal from your office so that we may forward same to our client and its bankruptcy counsel for comment.

Since Judge Gorton has scheduled a hearing in this matter for Thursday, November 4, 2004 at 10:00 a.m., we would appreciate your prompt attention.

Very truly yours,

Norman A. Peloquin, II

NAP:jam

cc: See attached list

cc: Holbrook & Murphy
150 Federal Street, 12th Floor
Boston, MA 02110
Attn: Robert J. Murphy
Via FAX Only 617-443-1696

Sterling Equipment, Inc.
62 Nay Street
East Boston, MA 02128
Attn: Norman B. Bourque, Jr.
Via FAX Only 617-561-0049

Partridge Snow & Hahn LLP
180 South Main Street
Providence, RI 02903
Attn: Charles A. Lovell
Via FAX Only 401-861-8210

Exhibit C

N. A. Peloquin

From: "Victor Bass" <vbass@burnslev.com>
To: <npeloquin@earthlink.net>
Sent: Wednesday, November 03, 2004 9:21
Subject: M.A.T. Marine/ Sterling Equipment
Norm,

Sorry- I got caught up in something just afetr we talked and only realized too late this didn't get out.

I confirm that I am representing MAT Marine, that it will consent to judgment (I tht we were trying to avoid attending a hearing Thurs and wd rather do it by a stipulation, which we could file forthwith), if you withdraw your request for attachment. (Since MAT Marine has substantial equity in its equipment, as well as equipment with no liens on it, I think your paragraph 9 justification for an attachment is unfounded, but see no point infighting over this, if we can have an opportunity to work things out.) This will give us 30 days to work things out with the bank and with you to avoid a Chapter 11. If we cannot work it out, you will have your execution to levy on, and a right to interest after the judgment.

Please confirm if this is acceptable to your client.

Vic

Victor Bass
Chair, Bankruptcy Group
Burns & Levinson LLP
125 Summer Street, Boston MA 02110
175 Derby Street, Hingham MA 02043
617-345-3290 fax: 3299

11/3/04